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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re RUBY Q., et al., Persons Coming
Under the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

ROMAN R., et al.,

Defendants and Appellants.

D049698

(Super. Ct. No. J512544A-D)

APPEAL from judgments of the Superior Court of San Diego County, Julia Craig
Kelety, Judge. Affirmed.

Roman R. (Father)¹ and Silvia Q. appeal a judgment terminating their parental
rights to their four minor children, Ruby Q., Briana Q., Roman R., and G.R. (the minors)

under Welfare and Institutions Code section 366.26.² Silvia asserts the court erred by denying her section 388 petition for modification seeking to have the minors returned to her custody, or alternatively, further reunification services. In addition, Silvia and Father challenge the sufficiency of the evidence to support the court's findings that: (1) the minors were adoptable; and (2) the beneficial parent-child relationship exception (§ 366.26, subd. (c)(1)(A)) and the sibling relationship exception (§ 366.26, subd. (c)(1)(E)) do not apply to preclude termination of parental rights.³ We affirm the judgments.

FACTUAL AND PROCEDURAL BACKGROUND

In November 1998, Ruby Q. and her sister Briana Q. became dependents of the juvenile court after Briana was born with a positive toxicology for methamphetamines. Father and Silvia received reunification services from 1998 through 1999 that included domestic violence treatment and parenting classes. In addition, Silvia completed a drug rehabilitation program. The court terminated jurisdiction in December 1999, and Ruby and Briana were returned to the custody of Silvia and Father.

In December 2004, the Agency filed a petition under section 300, subdivision (b) on behalf of nine-year-old Ruby, six-year-old Briana, three-year-old Roman, and

¹ Roman R. will be referred to as Father in order to avoid confusion with Roman R., a minor in this appeal.

² All statutory references are to the Welfare and Institutions Code.

³ Agency's counsel filed a motion on January 26, 2007, to augment the record with postjudgment evidence relating to the issue of adoptability and applicability of the sibling relationship exception. Because we conclude substantial evidence supports the court's

11-month-old G.R. The petition alleged the minors were at risk of serious harm or illness due to ongoing domestic violence in the home and Silvia's use of methamphetamine.

The social workers interviewed Ruby and Briana and the two girls described several incidents of extreme domestic violence they had witnessed. Ruby told social workers that Father had kicked Silvia in the stomach while Silvia was pregnant, causing Silvia to miscarry the baby. Ruby and Briana also witnessed Father grabbing Silvia's neck, choking her, and banging her head. Ruby told social workers she was terrified that Father might kill Silvia. In addition to the violence, Ruby described instances where Silvia bought and used drugs. After using drugs, Ruby stated Silvia would act "crazy" and would hit her and her siblings for no reason.

In January 2005 Silvia and Father submitted on the allegations of the petition and the minors were placed in the home of a nonrelative extended family member.⁴ The court ordered Silvia and Father to participate in reunification services and to undergo a psychological evaluation. In addition, the court ordered Silvia to participate in the Substance Abuse and Recovery Management Systems (SARMS) program.

findings, this postjudgment evidence has not been considered in reaching our decision. Accordingly, we deny the motion.

⁴ Under section 362.7, a nonrelative extended family member is defined as "any adult caregiver who has an established familial or mentoring relationship with the child. The county welfare department shall verify the existence of a relationship through interviews with the parent and child or with one or more third parties. The parties may include relatives of the child, teachers, medical professionals, clergy, neighbors, and family friends."

During the first six months of services, the parents did not show great progress. They began to live together without informing the social worker. In addition, they engaged in physical altercations. However, by June 2005 Silvia secured a restraining order against Father, and the court granted an additional six months of services. Silvia and Father continued to participate in services and began to make progress. Although Silvia initially had poor to fair compliance with SARMS, she later successfully participated in the Community Resources and Self-Help (CRASH) program and entered into a sober living arrangement. Silvia also participated in individual therapy and domestic violence classes. She secured stable employment and progressed from supervised visits to unsupervised overnight visits.

Father also participated in domestic violence classes and therapy. After participating in therapy for several months, Father began to recognize and take responsibility for his role in the domestic disputes between himself and Silvia. He acknowledged that he needed to complete treatment and continue to participate in therapy.

In January 2006 the Agency submitted a report detailing an incident of domestic violence that occurred between Father in Silvia. During one of her overnight visits with the minor, Silvia violated a no contact order by taking the minors to Father's home. After returning from the visit, the caregiver reported the minors came back "out of control" and that Ruby was very scared. Roman told his teacher that during the visit, Father and Silvia were fighting when Father hit Silvia and she hit him back. Briana said Father and Silvia argued but did not have a physical altercation. Roman's teacher noticed Roman exhibited

serious behavioral outbursts after visits with Silvia. He used foul language and appeared to be traumatized. In addition, Ruby expressed fear about going back to live with her parents and said she would like to continue living with her caregiver where she felt safe. The social worker questioned Father and Silvia about the visit but they both denied the visit ever took place. The social worker submitted an addendum report to the court, noting this is one of few cases where the minors verbalized fear about their parents' actions and preferred not to reunify. The social worker recommended terminating services and scheduling a selection and implementation hearing under section 366.26. At the March 2006 12-month review hearing, the court terminated reunification services and scheduled a section 366.26 hearing.

The Agency prepared and submitted an assessment report in anticipation of the section 366.26 hearing. The social worker recommended the court terminate parental rights and order adoption as the permanent plan. According to the social worker, Ruby and Briana suffered from behavioral problems as a result of their exposure to ongoing domestic violence. Ruby submitted to a psychological evaluation that determined she had an emotional connection to her biological parents. In addition, she felt responsible for their behavior and feared the domestic violence would continue. Ruby stated she liked her caregiver and felt fine in her placement. Both Ruby and Briana had started participating in therapy after their removal and had made significant progress. Their therapist also noted Ruby and Briana were doing well in their current placement.

Roman also exhibited behavioral problems and was receiving services. During visits with Silvia, Roman would sometimes become angry, throw things, hit Silvia and hit

his siblings. During a visit the social worker observed Roman hitting Silvia. Silvia attempted to redirect Roman but he did not listen. The caregiver, however, was able to talk to Roman and calm him down.

Father participated in visits with the minors. During visits, Father played games with the minors and everyone appeared to enjoy their time together. The social worker believed the minors had a parental relationship with Silvia and Father but that the minors would benefit more from a permanent plan providing them with stability than continuing relationships with Father and Silvia. The report emphasized that one year following the removal of the minors, Silvia visited the Father with the minors and the minors reported incidents of domestic violence. Ruby and Briana expressed their fears about their own safety due to the ongoing domestic violence. The minors instead were bonded to their caregiver and were thriving in their placement. The report noted that in addition to the caregiver, an additional 12 out-of-county families are interested in adopting a sibling set like Ruby, Briana, Roman, and G.R.

In August 2006 Silvia filed a section 388 petition for modification, seeking to have the minors returned to her or, alternatively, for more reunification services. In support of her petition, she alleged she completed a parenting class, remained drug free and continued with individual therapy and domestic violence treatment. Further, no new incidents of violence had occurred between Silvia and Father.

Before the section 388 evidentiary hearing and section 366.26 hearing, the Agency submitted psychological evaluation reports generated by Dr. Joyce Dingwall on behalf of Roman and Briana. Dr. Dingwall believed Roman was being "re-traumatized during

visits with his parents, because of his . . . frightening memories of violence and abuse." In response, Dr. Dingwall recommended that visits with the minors be reduced. In addition to the psychological evaluations, the minors and the caregiver submitted to a bonding study conducted by Dr. Beatriz Heller. Dr. Heller believed Briana, Roman, and G.R. appeared to have internalized the caregiver as the "psychological mother . . . whom they view as the source of love and nurturance." Dr. Heller noted Ruby was at ease with her caregiver but Ruby might experience conflict between her sense of loyalty to Silvia and her "strong attachment" to the caregiver. Dr. Heller further noted the caregiver showed "remarkable" flexibility in responding to the minors' individual needs. The caregiver was highly responsive to the minors and promoted positive interactions.

Dr. Robert Kelin conducted a bonding study between the minors and Silvia in July 2006. Dr. Kelin opined the minors shared a "mild bond" with Silvia. Interactions between Silvia and the minors were appropriate and the minors appeared happy to see Silvia. The minors also respected Silvia and saw her as a parental figure. However, all four minors easily separated from Silvia at the end of the study and did not show any signs of adverse reactions.

Following several continuances, the section 388 and section 366.26 hearings began in October 2006. The court considered submitted reports and heard testimony from several witnesses. Family therapist intern Rodolfo Parra testified Silvia participated in domestic violence group therapy two hours each week. She had attended 50 sessions thus far. Parra believed Silvia had acquired and learned techniques on how to avoid becoming involved in violent relationships and how to handle such a relationship if she

confronted a violent person in the future. Parra noted Silvia understood how the violence affected others, including the minors.

Silvia testified she participated in extensive domestic violence treatment and therapy. She believed the individual therapy allowed her to gain confidence and overcome the low self-esteem that had led to her violent relationship with Father. She stated she had taken responsibility for the ongoing domestic violence in her life and admitted she had not protected her children. Silvia admitted she had taken the minors to Father's home during an unsupervised visit and had asked the minors to lie about it. She stated she knew taking the minors on that visit was wrong and felt remorse for her mistake.

Regarding her current living arrangements, Silvia had rented a two-bedroom house, and planned to have the minors' aunt assist with day care while Silvia worked. Silvia had secured a job as a city bus driver and the employment included benefits for her and the minors. Silvia testified she did not have a relationship with Father and did not intend to become involved with him again. Concerning the minors' ongoing therapy, Silvia admitted she had not spoken with the therapist that oversaw Ruby, Briana, and Roman's cases.

Therapist Lorena Avitea testified regarding her observations of Roman during therapy sessions. Avitea testified that when she first started meeting with Roman, he exhibited aggressive behavior during play therapy and towards her. Roman also was known to hit or scratch himself during tantrums. She believed Roman showed through his play therapy that his life had been very chaotic and he would benefit from extensive

therapy. Avitea noted the caregiver was able to calm Roman during his tantrums, showed patience with him, and was able to make him feel safe.

Ruby's therapist, Layla Davis, testified that Ruby stated she wanted to stay with the caregiver. Ruby loved her mother and wanted to go home with her but did not feel safe. Ruby did state she felt safe with the caregiver. Ruby appeared to feel responsibility for the well-being of her siblings. Ruby further felt the need to care for Silvia. Davis further testified Ruby would suffer harm if not allowed to see Silvia again. However, it would also be emotionally difficult for Ruby not to have contact with her caregiver. Davis urged the court to expedite a permanent plan for the minors in an effort to provide them with stability.

After considering evidence and hearing arguments, the court found circumstances had changed but Silvia had not met her burden of showing the requested modification was in the minors' best interests. The court denied the section 388 petition for modification. As to the issues for the selection and implementation hearing, the court found the minors were likely to be adopted and none of the exceptions of section 366.26, subdivision (c)(1) applied to preclude terminating parental rights. The court terminated parental rights and referred the minors for adoptive placement.

DISCUSSION

I

Silvia contends the court erred by denying her section 388 modification petition to have the minors returned to her custody, or alternatively, further reunification services.

Silvia asserts she showed circumstances had changed and returning the minors to her custody would serve the minors' best interests.

Under section 388 a parent may petition the court to change, modify or set aside a previous court order. The petitioning party has the burden of showing, by a preponderance of the evidence, that there is a change in circumstances or new evidence, and the proposed change is in the child's best interests. (§ 388; *In re Jasmon O.* (1994) 8 Cal.4th 398, 415-416.) Whether a previous order should be modified and a change would be in the child's best interests are questions within the sound discretion of the juvenile court. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318; *In re Michael B.* (1992) 8 Cal.App.4th 1698, 1704.) When two or more inferences reasonably can be deduced from the facts, we have no authority to substitute our decision for that of the trial court. (*In re Stephanie M., supra*, at p. 319.) The juvenile court's order will not be disturbed on appeal unless the court has exceeded the limits of legal discretion by making an arbitrary, capricious or patently absurd determination. (*Id.* at p. 318.)

When the court evaluates the appropriate placement for a child after reunification services have been terminated, its sole task is to determine the child's best interests. (*In re Stephanie M., supra*, 7 Cal.4th at p. 320.) In this context, the goal is to assure the child "stability and continuity." (*Id.* at p. 317.) The need for stability and continuity " 'will often dictate the conclusion that maintenance of the current arrangement would be in the best interests of that child.' [Citation.]" (*Ibid.*) Thus, after the court terminates reunification services, "there is a rebuttable presumption that continued foster care is in the best interests of the child." (*Ibid.*)

The court found Silvia's circumstances had changed. Thus, we examine only whether the court abused its discretion by denying her section 388 petition because it would not be in the minors' best interests to be returned to Silvia or for Silvia to receive additional services. After termination of reunification services, the focus of the dependency proceedings is to provide the child with permanency and stability. (*Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 254-256; *In re Marilyn H.* (1993) 5 Cal.4th 295, 310.) At the time of the hearing on the section 388 petition, the minors had been dependents for about two years. Before this dependency, Ruby and Briana had been involved in a prior dependency in 1998 lasting one year. The problems that led to the instant dependency were serious. The minors had been subjected to repeated domestic disturbances in the home and Silvia abused methamphetamines. As a result of these incidents, the minors suffered significant trauma as shown by their behavior. In January 2006 Silvia abused her unsupervised visits with the minors by taking them to see Father, where they witnessed another domestic disturbance. This event adversely impacted the minors. Roman returned to the caregiver acting "out of control" and Ruby verbally expressed her fear about living with the parents.

According to the bonding studies received in evidence, Briana, Roman and G.R. were bonded to their caregiver and benefiting from the safety and stability in the home. Although the minors saw Silvia as a parental figure, the bonding study showed the minors only shared a "mild bond" with her. Briana, Roman and G.R. instead viewed the caregiver as a source of love and nurturance. Ruby stated she would miss her mother but indicated in a recent therapy session that she loved her caregiver and felt safe with her.

The caregiver also was one of the few persons with the ability to calm Roman when he threw tantrums, thereby showing her understanding of Roman's needs.

The court properly evaluated the evidence presented at the section 388 hearing in light of the minors' need for stability and continuity (*In re Stephanie M.*, *supra*, 7 Cal.4th at p. 317). The evidence showed the minors felt safe and secure in their home and protected from a long history of instability and uncertainty. The court acted well within its discretion by denying Silvia's section 388 petition. (*Id.* at pp. 318-319.)

II

Silvia and Father contend the court erred by finding the minors were likely to be adopted. They assert the minors are not adoptable because the order selecting adoption as the minors' permanent plan was based on insufficient evidence of the caregiver's eligibility to adopt.

A

When reviewing a court's finding a minor is adoptable, we apply the substantial evidence test. (*In re Josue G.* (2003) 106 Cal.App.4th 725, 732; *In re Lukas B.* (2000) 79 Cal.App.4th 1145, 1154.) If, on the entire record, there is substantial evidence to support the findings of the juvenile court, we uphold the findings. We do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence or evaluate the weight of the evidence. (*In re Casey D.* (1999) 70 Cal.App.4th 38, 52.) Rather, we view the record favorably to the juvenile court's order and affirm the order even if substantial evidence supports a contrary conclusion. (*Id.* at pp. 52-53.) The parent has the burden of showing there is no evidence of a sufficiently substantial nature to support the finding or

order. (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947; *In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

The court can terminate parental rights only if it determines by clear and convincing evidence the minor is likely to be adopted within a reasonable time. (§ 366.26, subd. (c)(1).) The statute requires clear and convincing evidence of the likelihood adoption will be realized within a reasonable time. (*In re Zeth S.* (2003) 31 Cal.4th 396, 406; *In re Amelia S.* (1991) 229 Cal.App.3d 1060, 1065.) In determining adoptability, the focus is on whether a child's age, physical condition and emotional state will create difficulty in locating a family willing to adopt. (§ 366.22, subd. (b)(3); *In re David H.* (1995) 33 Cal.App.4th 368, 379.) "Usually, the fact that a prospective adoptive parent has expressed interest in adopting the minor is evidence that the minor's age, physical condition, mental state, and other matters relating to the child are not likely to dissuade individuals from adopting the minor. In other words, a prospective adoptive parent's willingness to adopt generally indicates the minor is likely to be adopted within a reasonable time either by the prospective adoptive parent or by some other family." (*In re Sarah M.* (1994) 22 Cal.App.4th 1642, 1649-1650, italics omitted.)

B

Silvia and Father argue that absent the willingness of the current caretakers, it was not clear that another family would be willing to adopt the sibling set. However, in the social worker's opinion, the minors were adoptable as a set because of their overall good health and there were 12 other families outside of San Diego County willing to adopt a set of four siblings like the minors. The evidence of the additional families is relevant to

evaluating the likelihood of adoption. Where, as here, the evidence of adoptability is not based solely on the existence of a single prospective adoptive parent who is willing to adopt, the potential adoptive parent's suitability to adopt is irrelevant to the issue of whether a minor is likely to be adopted. (*In re Sarah M.*, *supra*, 22 Cal.App.4th at p. 1651.) Although the caregivers' adoptive home study had not yet been completed, there is no indication the adoption would not go forward. The record shows no evidence that the caregiver had a criminal or child protective services history. Further, the social worker's report showed the caregiver remained committed to adopting the minors. In addition, the social worker had no concerns about the caregiver's ability to adopt. The minors had lived with the caregiver for about two years and had overcome significant behavioral challenges while living with the caregiver. Substantial evidence supports the court's finding of adoptability.

III

Silvia and Father argue the evidence is insufficient to support the court's finding the beneficial parent-child relationship of section 366.26, subdivision (c)(1)(A) does not apply to preclude terminating his parental rights. They assert the minors would benefit from continuing the parent-child relationship because they had maintained regular visitation and contact with the minors.

A

We review the court's finding the beneficial relationship exception does not apply under the substantial evidence standard. (*In re Casey D.*, *supra*, 70 Cal.App.4th at p. 53; *In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.) "Adoption, where possible, is the

permanent plan preferred by the Legislature." (*In re Autumn H.*, *supra*, at p. 573.) If the court finds a child cannot be returned to his or her parent and is likely to be adopted if parental rights are terminated, it must select adoption as the permanent plan unless it finds termination would be detrimental to the child under one of five specified exceptions. (§ 366.26, subd. (c)(1)(A)-(E); see also *In re Erik P.* (2002) 104 Cal.App.4th 395, 401; *In re Derek W.* (1999) 73 Cal.App.4th 823, 826.)

Section 366.26, subdivision (c)(1)(A) is an exception to the adoption preference if termination of parental rights would be detrimental to the child because "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." We have interpreted the phrase "benefit from continuing the relationship" to refer to a "parent-child" relationship that "promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. In other words, the court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent's rights are not terminated." (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575; accord *In re Zachary G.* (1999) 77 Cal.App.4th 799, 811.)

To meet the burden of proof for this statutory exception, the parent must show more than frequent and loving contact, an emotional bond with the child or pleasant

visits. (*In re Derek W.*, *supra*, 73 Cal.App.4th at p. 827.) "Interaction between natural parent and child will always confer some incidental benefit to the child. . . . The relationship arises from the day-to-day interaction, companionship and shared experiences." (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) Although day-to-day contact is not required, it is typical in a parent-child relationship. (*In re Casey D.*, *supra*, 70 Cal.App.4th at p. 51.) The parent must show he or she occupies a parental role in the child's life, resulting in a positive and emotional attachment from child to parent. (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575; *In re Elizabeth M.* (1997) 52 Cal.App.4th 318, 324.)

B

The court found Silvia and Father regularly visited the minors. Thus, we examine only whether substantial evidence supports the court's finding they did not show they had a beneficial relationship with the minors. Admittedly, the evidence shows Silvia and Father had a relationship with the minors, but it was not shown to be a beneficial parent-child relationship within the meaning of section 366.26, subdivision (c)(1)(A). Dr. Robert Kelin conducted a bonding study between the minors and Silvia and observed that although the minors seemed happy to see Silvia, they did not show any negative reactions when visits ended. Dr. Kelin concluded Silvia and the minors shared a "mild bond." He believed their mild bond could result in "some damage" if parental rights were terminated. However, Dr. Kelin did not state the minors would benefit more from maintaining a relationship with Silvia than they would by being adopted. Instead, the bonding study between the minors and the caregiver showed Briana, Roman and G.R.

saw the caregiver as their psychological mother. They felt loved by the caregiver and had a sense of comfort and acceptance around her. The study further noted Ruby was at ease with the caregiver and although she felt loyalty to Silvia, Ruby had a strong attachment to the caregiver.

The social worker acknowledged that the minors had a relationship with Silvia and Father but believed there was no beneficial parent-child relationship and any benefit the minors derived from the relationships was outweighed by the stability and security the minors would gain from being adopted. The social worker observed visits between the minors and the Silvia and Father and these visits were appropriate. However, Ruby and Briana had expressed their concerns that Silvia and Father would reunite and fight again. Their current caregiver had provided them with a safe home in which all minors were thriving. The court was entitled to find the social worker's expert opinion credible and give greater weight to her assessment and testimony than to the opinions of other service providers. We cannot reweigh the evidence or substitute our judgment for that of the trial court. (*In re Casey D.*, *supra*, 70 Cal.App.4th at p. 53.)

In addition, to establish the section 366.26, subdivision (c)(1)(A) exception, Silvia and Father needed to show the minors would suffer detriment if their relationships were terminated. (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) The evidence, however, did not show terminating parental rights would likely cause the minors great harm and deprive them of a substantial, positive emotional attachment. (*Ibid.*) Dr. Kelin's bonding study noted that there could be some detriment to all of the minors if parental rights were terminated, but it did not state this detriment would outweigh the benefits they would

gain from adoption. Moreover, Ruby's therapist testified that Ruby would experience emotional harm if she never saw Silvia again but she would also suffer harm if she never saw her caregiver again. Further, during a recent therapy session, therapist Davis noticed Ruby's ambivalence about returning to Silvia and Father because she sometimes felt unsafe with Silvia. Ruby also expressed wanting to be with both Silvia and caregiver but stated that she loved her caregiver, felt safe in the home, and was willing to stay with the caregiver. Concerning Briana and Roman, Davis stated Briana had a strong attachment to the caregiver and had stated that she knew the caregiver loved her. Although the minors may grieve and feel a sense of loss if they no longer had contact with Silvia and Father, there was no showing the minors would be greatly harmed. To require a parent show only "some, rather than great, harm at this stage of the proceedings would defeat the purpose of dependency law." (*In re Brittany C.* (1999) 76 Cal.App.4th 847, 853.)

After balancing the strength and quality of the parent-child relationship against the security and sense of belonging that an adoptive placement would give the minors after three years of dependency proceedings, the court found the preference for adoption had not been overcome. Substantial evidence supports the court's finding the section 366.26, subdivision (c)(1)(A) exception is inapplicable. (See *In re Clifton B.* (2000) 81 Cal.App.4th 415, 425.)

III

Silvia and Father contend the sibling relationship exception set forth in section 366.26, subdivision (c)(1)(E) applied to compel a permanent plan other than adoption. They assert the minors have a close and significant relationship with each other and that

ongoing contact with minors was in their best interests.

A

Section 366.26, subdivision (c)(1)(E) provides an exception to terminating parental rights when the juvenile court finds there is a compelling reason for determining that termination would be detrimental to a child due to substantial interference with a child's sibling relationship. Factors to be considered include the nature and extent of the relationship, whether a child was raised with a sibling in the same home, and whether a child has strong bonds with a sibling. The court must also consider whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption. (*Ibid.*; see also *In re L.Y.L.*, *supra*, 101 Cal.App.4th at pp. 951-952.)

The sibling relationship exception contains "strong language creating a heavy burden for the party opposing adoption." (*In re Daniel H.* (2002) 99 Cal.App.4th 804, 813.) The exception focuses exclusively on the benefits and burdens to the child being considered for adoption, not the other siblings. (*Ibid.*) Similar to the beneficial parent-child relationship exception, application of the sibling relationship exception requires a balancing of interests. (*In re L.Y.L.*, *supra*, 101 Cal.App.4th at p. 951.) However, the parents have the burden to show: (1) the existence of a significant sibling relationship; (2) termination of parental rights would substantially interfere with that relationship; and (3) it would be detrimental to the child if the relationship ended. (*Id.* at p. 952.) Once the parent establishes that a sibling relationship is so strong that its severance would be detrimental to the adoptive child, the court then decides whether the benefit to the child

of continuing the sibling relationship outweighs the benefit of adoption. (*Id.* at pp. 952-953.)

B

Here, there is evidence to show the minors have a significant sibling relationship. The minors lived together before the dependency and since becoming dependents, they have lived in the same home. Ruby and Briana's therapist indicated they were "quite attached" to each other and cared deeply for one another. The therapist believed it would be "very hard for them to be separated" and that all the siblings were attached to each other.

There is no showing that termination of parental rights will substantially interfere with the minors' relationships with each other. Silvia and Father assert that if the home study is not approved, the minors could be separated. Admittedly the home study had not been approved by the time of the section 366.26 hearing. Nonetheless, the record shows the minors currently are placed together in the prospective adoptive parents' home. They have lived in this home together for about two years and there is no indication that permanent placement in this home will not go forward. The caregiver has remained strongly committed to these four children for the entire dependency. Further, the caregiver does not have a criminal or child protective services history that would thwart the dependency process and the social worker had no concerns about the caregiver's ability to adopt. In addition, the Agency has identified 12 other families interested in adopting sibling set of four like the minors should the caregiver's home study not be approved. These families may not be in San Diego County, but the fact these 12 families

exist along, with the caregiver's commitment to adopt, provided the trial court sufficient evidence to find that the minors' relationships with one another will not be interfered with should parental rights be terminated. Substantial evidence supports the finding that the sibling relationship exception does not apply to preclude terminating Silvia and Father's parental rights.

DISPOSITION

The judgment is affirmed.

NARES, J.

WE CONCUR:

BENKE, Acting P. J.

AARON, J.